

ORDINANCE NO. 07-125

AN ORDINANCE TO AMEND THE ALCOA MUNICIPAL CODE BY DELETING TITLE 10 TITLED "ANIMAL CONTROL" IN ITS ENTIRETY AND SUBSTITUTING IN LIEU THEREOF A NEW CHAPTER 10 TITLED "ANIMALS," TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF ALCOA BY PRESCRIBING THE TYPES OF ANIMALS THAT CAN BE KEPT IN THE CITY; TO ENSURE THE HUMANE TREATMENT OF ANIMALS BY REGULATING THE CARE, CONDITION AND CONTROL OF ANIMALS; AND TO PROVIDE FOR THE REGULATION OF VICIOUS DOGS.

WHEREAS, the City of Alcoa, through its police power, may regulate animals in a reasonable manner; and

WHEREAS, the City has the authority to enforce an anti-cruelty provision; and

WHEREAS, there are numerous reported dog and cat bites each year; and

WHEREAS, the City has a duty to put into place, measures to protect its citizens from unprovoked attacks from dogs and cats; and

WHEREAS, the City has a duty to put into place, measures to protect its citizens from unvaccinated, diseased, stray, roaming, and dangerous domesticated and wild animals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ALCOA AS FOLLOWS:

SECTION 1. The Alcoa Municipal Code is hereby amended by deleting Title 10, Animal Control, in its entirety and substituting in lieu thereof a new Chapter 10, titled "Animals," which shall read as follows:

TITLE 10
ANIMALS

- Section I. General Provisions, 10-101 --- 10-137.
- Section II. Rabies Control, 10-138 --- 10-155.
- Section III. Vicious Dogs, 10-156 --- 10-180.
- Section IV. Service Animals, 10-181

SECTION I. GENERAL PROVISIONS

Sec. 10-101. Definitions

The following definitions shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

Animal. The term "animal" means and includes all living non-human creatures, domestic or wild, including livestock.

Animal control officer. The term "animal control officer" means any officer of the Alcoa Police Department, Division of Animal Control.

At large. The term “at large” means off the premises of the owner and not under restraint.

Attack. The term “attack” means an unprovoked attack in an aggressive manner on a human in which the victim suffers a physical injury; or on a domestic animal that causes death or injury that requires veterinary treatment.

Chief of Police. The term “Chief of Police” means the Chief of Police for the City of Alcoa.

City Manager. The term “City Manager” means the City Manager for the City of Alcoa or his authorized designee.

Confined. The term “confined” means: securely confined indoors; within an automobile or other vehicle solely for transportation and transported in a humane manner; or confined in a securely enclosed and locked pen, structure, or fence, including electronic or similar fencing, sufficient to confine an animal in heat or a vicious dog.

Cruelty. The term “cruelty” means any act or omission of care that inflicts unnecessary physical pain or suffering on an animal that results in the death of an animal, including, but not limited to, the following:

- (a) striking, beating, kicking, dragging, choking, or the use of an object or weapon to inflict pain upon or to injure an animal;
- (b) use of caustic, flammable, boiling or heated substances on an animal;
- (c) suffocation or drowning of an animal;
- (d) transport or confinement of an animal in an inhumane manner;
- (e) torture, maiming, or mutilation of an animal;
- (f) overworking, overdriving or driving an animal when overloaded;
- (g) shooting a firearm or other missile-projecting weapon at an animal; wounding, capturing, or in any other manner molesting, injuring or killing an animal;
- (h) inflicting burns, cuts, or lacerations on an animal by any method;
- (i) failure to provide health related care or grooming of an animal;
- (j) causing an animal, except livestock, to drag any heavy object, including but not limited to, cinder blocks, heavy weights, bricks, chains, or logs; or carrying any other object with the purpose of building up the strength or endurance of an animal; or
- (k) any other act which causes harm or injury to an animal.

In the case of activities where physical pain is necessarily caused, such as medical, research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, “cruelty” means a failure to employ the most humane method reasonably available.

Division of Animal Control. The term “Division of Animal Control” means the Alcoa Police Department, Division of Animal Control.

Guard or attack dog. The term “guard dog” or “attack dog” means a dog trained to attack on command or to protect persons or property, by attacking or threatening to attack, and who will cease to attack upon command.

Fowl. The term “fowl” means any wild or domesticated bird.

Impoundment. The term “impoundment” means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

Kennel. The term “kennel” means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, puppies, cats or kittens or any other animal typically kept on such premises.

Livestock. The term “livestock” means all farm animals, including but not limited to cattle, horses, pigs, fowl, sheep, goats, and mules.

Muzzle. The term “muzzle” means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or animal. Such device shall not interfere with the animal’s ability to breathe.

Owner. The term “owner” means any person having a right of property in an animal, or who keeps or harbors an animal or who has it in his or her care, or acts as its custodian or who permits an animal to remain on or about the person’s premises. If an animal has more than one owner, all owners are jointly and severally liable for the acts or omissions of an owner.

Pig. The term “pig” means any type of pig, hog, or swine including, but not limited to, pot-bellied pigs.

Quarantine. The term “quarantine” means the humane confinement of an animal for the observation of symptoms for rabies, or other disease, in a secure enclosure that prevents the animal from coming into unplanned contact with any other animal or human being.

Restraint.

- (a) For all animals, the term “restraint” means on the premises of the owner or, if off the premises, secured by leash or lead under the control of a person physically capable of restraining the animal and obedient to that person’s commands.
- (b) A dog or puppy may be restrained by a fixed point chain or tether for no more than eight (8) hours in a twenty-four (24) hour period.
- (c) A dog may be exclusively restrained by a chain or tether provided that it is at least ten (10) feet in length, with swivels on both ends, and is properly attached to a pulley or trolley mounted on a cable which is also at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level in a manner so as not to interfere or become entangled with objects on the property.

- (d) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.
- (e) No chain or tether shall weigh more than one-eighth (1/8) of the dog or puppy's body weight.
- (f) Any chain or tether must be attached to a properly fitting collar or harness worn by the dog or puppy.

Severe attack. The term "severe attack" means an unprovoked attack upon a human being in which the victim suffers a severe bite or is shaken violently, and which causes serious physical trauma, morbidity, or death.

Wild animal. The term "wild animal" means any live monkey, non-human primate, raccoon, skunk, deer, wildcat, possum, fox, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), livestock, rodents, reptiles, snakes, and captive bred species of common cage birds.

Sec. 10-102. Supervision of animal shelter.

The city animal shelter shall be under the supervision of the City Manager.

Sec. 10-103. Trapping, hunting, and shooting birds prohibited; exceptions

It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot birds or wildfowl or to rob nests thereof; except starlings, English sparrows, and pigeons congregating in the City may be destroyed at the direction of the City Manager. Further, the City Manager may authorize the hunting of doves during the legally sanctioned season as designated by the Tennessee Wildlife Resource Agency; provided all requirements for lawfully hunting in the State of Tennessee are met.

Sec. 10-104. Registration of dogs and cats

- (a) All residents owning, keeping, or harboring any dog or cat over three (3) months of age or any other animal which must be vaccinated for rabies, shall pay to the city through the police department a yearly registration fee of three dollars (\$3) for each spayed or neutered dog or cat or other animal which must be vaccinated for rabies and ten dollars (\$10) for each non-spayed or unaltered dog or cat or other animal which must be vaccinated for rabies.
- (b) Upon receipt of the registration fee required by subsection (a) and the exhibition of an unexpired certificate of rabies vaccination, an Animal Control Officer shall issue a registration certificate to the owner of the animal, giving the owner's name, date issued, amount paid, description, name, age and sex of the animal, the registration tag number issued, the date the animal was vaccinated, and the type of vaccine used.
- (c) At the time a registration certificate is issued under subsection (b), an Animal Control Officer shall also deliver a registration tag bearing the serial number of the registration certificate and the year in which it was delivered. The shape and/or color of the tag shall be

changed every year and it shall be the duty of every owner to provide each registered animal with a collar or harness to which the registration tag must be affixed and such owner shall see that the collar or harness is constantly worn. If a registration tag is lost or destroyed, a replacement will be issued upon presentation of a receipt showing the payment of the fee, and payment of a one dollar (\$1) replacement tag fee.

- (d) The registration tag is valid for a maximum period of twelve (12) months and will expire on the same date the rabies vaccination expires.
- (e) It shall be unlawful for any person owning, keeping or harboring an animal within the city to fail to register such animal as required by this section.
- (f) It shall be unlawful to transfer or place a registration tag onto any animal for which the tag was not issued.
- (g) Animals within the city limits for thirty (30) days or less are not required to be registered.
- (h) Persons newly residing within the city limits have thirty (30) days in which to comply with this section.

Sec. 10-105. Maximum number of animals per household.

No person shall keep, lodge or maintain in excess of four (4) dogs and / or cats over the age of six (6) months. For the purpose of this ordinance the head of the household is responsible for meeting the requirements of the maximum number of animals allowed. Exception: If at the time Section 10-105 is adopted a household exceeds the maximum number of animals, the household would be exempt from the provisions of Section 10-105 providing: In the opinion of an animal control officer the number of animals are being cared for and the animals are vaccinated against rabies and licensed within 60 days of adoption of Section 10-105. Further, if at any time the number of animals fall within the number of animals allowed under Section 10-105 then the household will be bound by Section 10-105 without exception.

Sec. 10-106. Animal Waste

The owner of any animal shall remove any excreta deposited by their animal on public walks, recreation areas, public streets or private property other than the premises of the owner of the animal, except where attendants are employed for the purpose of removing the deposits, such as would be the case in a horse show arena, parade or other such event or establishment.

Sec. 10-107. Registration fee for kennels.

Persons operating a kennel where dogs are bred for sale shall not be required to pay the registration fee required by Section 10-105, but in lieu thereof shall pay, on or before the first day of May of each year, or upon the operating of such kennel, a registration fee as a kennel operator. These fees are annual fees and shall be as follows:

- (1) Less than ten (10) animals, twenty dollars (\$20).
- (2) Between ten (10) and twenty (20) animals, thirty dollars (\$30).
- (3) More than twenty (20) animals, forty dollars (\$40).

At no time shall the number of dogs in the kennel exceed the number covered by the registration fee.

Sec. 10-108. Confinement of animals in heat.

Every female animal in heat shall be confined for a period of twenty-four (24) days in such a manner that such animal cannot come into contact with another animal, except for planned breeding. While exercised, the animal shall be properly leashed.

Sec. 10-109. Animals kept off the owner's property, prohibited.

- (a) No animal, except livestock, shall be kept on a vacant lot or area that is not adjacent to the owner's property.
- (b) An animal may be kept on the premises of the owner's business as protection while the business is closed, provided the owner complies with all applicable sections of this chapter.

Sec. 10-110. Animals at large prohibited.

No animal, whether registered or not, shall be allowed to run at large or upon the premises of one other than the owner unless secured by a leash or lead.

Sec. 10-111. Impoundment of animals running at large.

- (a) It shall be the duty of any authorized officer to apprehend and impound in an animal shelter any animal found running at large.
- (b) An animal wearing a valid city tag shall be held for a period of seven (7) working days from the date of apprehension. Untagged, unregistered animals shall be held for a period of five (5) working days. "Working Days" are defined as days the Animal Shelter is open.
- (c) Any animal not claimed within the times provided in the subsection (b) may be destroyed or sold.
- (d) The record of the owner, and not the particular animal, for one (1) year prior to the date of the current violation, shall be considered when calculating the number of offenses committed.
- (e) Any unaltered animal that has been impounded three (3) times within any twelve (12) month period shall be spayed or neutered within thirty (30) days of release from the shelter. The owner must show proof of the procedure to the Division of Animal Control.
- (f) In lieu of apprehending and impounding an animal found at large, the animal control officer, upon determining the owner, may return the animal to the owner and issue a citation requiring the owner to appear in city court for determination of whether there has been a violation within the meaning of Section 10-110.

- (g) No animal shall be released from impoundment unless and until it has been vaccinated and registered and a tag placed on its collar.

Sec. 10-112. Impounding fees.

Impoundment fees are fees set by the City of Alcoa and are for the purpose of deferring cost(s) associated with impounding an animal. Impoundment fees are in addition to any shelter fees collected by the detaining authority after an animal has been turned over for harboring. The impoundment fees are as follows:

- (1) Registered animal wearing a valid tag,
 - (a) Twenty dollars (\$20) for the first offense
 - (b) Thirty dollars (\$30) for the second offense
 - (c) Fifty dollars (\$50) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense.
- (2) Unregistered animal or registered animal not wearing a valid tag,
 - (a) Thirty dollars (\$30) for the first offense
 - (b) Forty dollars (\$40) for the second offense, and
 - (c) Fifty dollars (\$50) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense.
- (3) The impoundment of an animal under this section shall be in addition to, and shall not relieve the owner thereof from prosecution for, permitting such animal to run at large in violation of Section 10-110.

Sec. 10-113. Failure to re-claim animal at large.

Any owner who has been notified that his or her animal has been impounded and who refuses to pay the impound fee set forth in Section 10-112 shall be subject to a penalty for failure to re-claim the animal. In determining the number of prior failures to re-claim, the entire record of the owner with regard to every animal owned will be considered. The penalty shall be as follows:

- (a) First failure to re-claim, thirty dollars (\$30).
- (b) Second failure to re-claim, forty dollars (\$40).
- (c) Third and subsequent failures to re-claim, fifty dollars (\$50).

Sec. 10-114. Authority to destroy animals at large.

If any animal found at large in violation of this chapter cannot be safely taken and impounded, and either poses a threat to a person or the public or is seriously injured, such animal may be destroyed by any police officer or animal control officer. Nothing in this section shall be con-

strued to prevent a police officer or animal control officer from destroying an animal in self-defense.

Sec. 10-115. Keeping or possessing livestock.

It is unlawful for any person to keep or possess livestock, including pigs and goats, within the city. This section is inapplicable to areas zoned for livestock, provided the owner complies with the conditions set forth in the City Zoning Ordinance.

Sec. 10-116. Possession of wild animals, prohibited.

It is unlawful for any person to own or possess a wild animal within the city limits.

Sec. 10-117. Condition for sales of certain animals.

- (a) Fowl or rabbits younger than eight (8) weeks of age may not be sold in quantities of less than twenty-five (25) to a single purchaser.
- (b) No person shall give away any live animal, including fish, reptile or bird, as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (c) No person shall sell, offer for sale or give away any dog or cat less than six (6) weeks of age.

Sec. 10-118. Cruelty to animals prohibited

- (a) It shall be unlawful for any person to maliciously or willfully strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering, or death to an animal, or to do anything defined in Section 10-101 under "cruelty".
- (b) It shall be unlawful to color, dye, stain, or otherwise alter the natural color of any animal.
- (c) Any person convicted of cruelty to animals shall be subject to a penalty of not less than fifty dollars (\$50).
- (d) Nothing in this section prevents a person from using reasonable force to drive away a vicious or trespassing animal or to take any action necessary to avoid injury to a person.

Sec. 10-119. Improper care of animals prohibited.

No person owning or keeping an animal shall fail to provide it with "minimum care", as defined in this section, nor shall such person keep an animal under unsanitary conditions or in an enclosure that is over-crowded, unclean, or unhealthy.

- (a) Except for emergencies or circumstances beyond the owner's control, an animal is deprived of minimum care if it is not provided with care sufficient to preserve the health and well being of the animal considering the species, breed and type of animal. Minimum care includes, but is not limited to, the following requirements:

- (1) Food of sufficient quantity, quality and nutrition to allow for normal growth or maintenance of body weight.
- (2) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice shall not constitute adequate water source. Fowl shall at all times be provided with receptacles kept constantly filled with water.
- (3) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements.
- (4) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
- (b) An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six (6) inches for each animal confined therein, and the height must allow for each animal to fully stand upright.
- (c) An enclosure is unclean when it contains an excessive amount of animal waste.
- (d) An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal.

Sec. 10-120. Animal creating a nuisance.

- (a) Every person responsible for an animal shall keep it from creating a nuisance.
- (b) An animal creates a nuisance if it:
 - (1) Habitually and repeatedly makes noises sufficient to interfere with neighboring residents' reasonable use and enjoyment of their property.
 - (2) Is offensive to others due to an odor caused by the animal.
 - (3) Repeatedly turns over or rummages through refuse containers, damages flower or vegetable gardens, or causes damage to public property or property of others.
 - (4) Without provocation, chases or approaches a pedestrian, bicycle rider or vehicle in a menacing fashion or apparent attitude of attack.
 - (5) Without provocation, attacks or bites a person or other animal.
 - (6) Impedes refuse collection, mail delivery, meter reading or other public service activities.
 - (7) Trespasses on property not owned, leased or rented by the person responsible for the animal.
 - (8) Is maintained in a manner that is dangerous to the health, safety or welfare of the community.

Sec. 10-121. Abandonment.

It shall be unlawful for any person to abandon an animal that is under the person's ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

- (1) leaving an animal for a period in excess of twenty-four (24) hours without providing for someone to feed, water and check on the animal's condition;
- (2) Leaving an animal by a roadside or other area; or,
- (3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section shall be subject to a penalty of not less than fifty dollars (\$50). Each animal abandoned is a separate violation.

Sec. 10-122. Poisoning.

It shall be unlawful for any person, other than a licensed veterinarian or a person under the direction of a veterinarian for humanitarian purposes, to:

- (1) administer poison to any animal(s);
- (2) distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any animal; or,
- (3) knowingly leave a poisonous substance of any kind or ground glass in any place with the intent to injure an animal or in any location where it may be readily found and eaten by an animal.

The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or to persons using commercial insecticides and rodent baits to control insects and wild rodents. This section is also inapplicable to any measures taken under Section 10-104 by the City Manager.

Sec. 10-123. Noisy animals prohibited.

- (a) No person owning or keeping any animal shall fail to prevent such animal from disturbing the peace of any other person by loud and persistent or loud and habitual barking, yelping, howling, braying, whinnying, crowing, calling or making any other noise, whether the animal is on or off the owner's premises.
- (b) No person shall be charged with violating this section unless a written warning was given to the owner within the twelve (12) months preceding the alleged date of violation. A warning is given if personally given to the owner or mailed first class to the owner.
- (c) No person shall be convicted of violating this section unless two (2) or more witnesses testify to the noise, or unless there is other evidence corroborating the testimony of a single witness.

Sec. 10-124. Animal on school grounds.

It shall be unlawful for any owner, or any other person having an animal under his or her care or control to take, allow, or let such animal upon the grounds, property, or premises of any public school operated by the Alcoa School System unless such person shall first have obtained written permission from the director of schools or the director's designee. This section is not applicable to any law enforcement animal, medical services animal or service animal.

Sec. 10-125. Interference with officers, violation of orders.

It shall be unlawful for any person to interfere with or hinder any animal control officer or any police officer while such officer(s) are in the performance of their duties prescribed in accordance with Chapter 10. It shall further be unlawful for any person to violate any orders issued by an animal control officer or police officer regarding the seizure, impoundment or confinement of an animal as provided herein.

Sec. 10-126. Authority to Trap.

It shall be the duty of any animal control officer to set traps for the purpose of carrying out the sections of Chapter 10. Further it shall be unlawful for any person to interfere with an animal control officer while carrying out their duties related to this ordinance including; moving, throwing, springing, releasing animals caught in traps or otherwise interfering with traps set by animal control officers.

Sec. 10-127. Citation procedure for violations of this chapter.

Whenever an animal control officer determines there has been a violation of any of the provisions in this chapter, the animal control officer shall prepare a written notice to appear in city court containing the name and address of such person, the offense charged, and the time when such person shall appear in city court. The time specified for appearance shall not be less than five (5) days from the date of the issuance to appear, unless the person cited agrees to a shorter time period. If the person so demands, the appearance in court shall be the first session of court following the citation. The cited person shall sign one (1) copy of the notice to appear. Signing the notice shall constitute the cited person's promise to appear on the date specified in the notice. One copy of the notice shall be delivered to the cited person.

Sec. 10-128. Failure to obey animal control citation.

No person shall violate his or her written promise to appear provided for in Section 10-127, regardless of the disposition of the charge for which the citation was originally issued. Failure to appear is a separate charge from the original citation and carries a fine of \$50.00 dollars.

Sec. 10-129. Acceptance of guilty pleas and penalties for animal control violations.

The city court clerk is hereby authorized to accept pleas of guilty for violations of this chapter, to accept designated penalties in connection with such pleas, to issue receipts therefore, and to appear for such person in court for the purpose of entering pleas of guilty, all in accordance with such procedures as may be established by the judge of the city court. Such penalties shall be accepted upon the entry of any plea of guilty before the court clerk. The amount of such penalty to be accepted shall be so designated by rule of court promulgated by the judge of the city court; provided that no such penalty may be accepted for a sum less than the minimum penalty

imposed by any section of this chapter for such offense. Any person given a citation for a violation of any provision of this chapter may post the penalty appropriate thereto, and notify the clerk of the city court that he or she will not appear for trial in which case the matter may be entered on the docket for trial. Court costs as set forth by the city will be collected in addition to any penalties on all citations issued under Chapter 10.

Sec. 10-130. Collection and disposition of fees.

All fees required by this chapter shall be collected as required and shall be deposited as required by law.

Sec. 10-131. Penalties.

Any person violating any provision of this chapter, unless the penalty is specified in the section, shall be punished by a penalty not to exceed fifty dollars (\$50). Each day a violation exists shall be deemed a separate violation.

Sec. 10-132. Severability.

If any section, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

Sec 10-133. Right of Entry.

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter or other applicable law, or whenever there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or other applicable law, any animal control or police officer is hereby empowered to enter such property at any reasonable time and to inspect the property and perform any duty imposed by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or a search warrant is obtained, as follows:
 - (1) If such property is occupied, the animal control officer or police officer shall first present proper credentials to the occupant and request entry, explaining the reasons there for;
 - (2) If such property is unoccupied, the animal control officer or police officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the property, present proper credentials and request entry, explaining the reasons there for; and
 - (3) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control or police officer shall obtain a warrant to conduct a search of the property.
- (b) Notwithstanding any other provision of this chapter, any animal control or police officer shall have the authority to enter upon any property to enforce the provisions of this chapter if a violation of such law is being committed in the presence of officer.

Sec. 10-134-10-137. Reserved.

SECTION II. RABIES CONTROL

Sec. 10-138. Vaccination of animals.

- (a) It shall be unlawful for any person to own, keep, or harbor any dog or cat, or other animal that requires vaccination for rabies, which has not been vaccinated against rabies as required by state law.
- (b) Evidence of such vaccination shall consist of a certificate bearing the owner's name and address, number of the vaccination tag issued, date of vaccination, date the animal shall be re-vaccinated, description and sex of the animal vaccinated, type and lot number of the vaccine administered and the license number of the veterinary clinic administering the vaccine.
- (c) All vaccinations shall be administered by or under the supervision of a veterinarian licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee.

Sec. 10-139. Apprehension and disposition of rabid animals and suspects.

Any animal capable of being infected with rabies, which is rabid or believed to be rabid, shall be immediately reported to the Police Department. Such animal shall be taken up and impounded if this can be accomplished with safety. If it is necessary for the city to destroy the animal to prevent further biting or for the safety of the community, every effort shall be made to avoid damage to the brain.

Sec. 10-140. Quarantine of animals inflicting, or suspected of inflicting, a bite or suspected of being rabid.

- (a) Any animal that is suspected of or has bitten a human being, or is suspected of being infected with rabies shall be quarantined at a facility designated by the City of Alcoa for no less than ten (10) days from the time the bite or scratch occurred. The owner shall be responsible for all quarantine fees and costs.
- (b) No animal that is suspected of or has bitten a human being or is suspected of being infected by rabies shall be killed or destroyed or removed from the city unless authorized by the City of Alcoa.
- (c) Only animals that appear to be without rabies shall be released from quarantine or impoundment.
- (d) No person shall hide, kill, conceal or aid or assist in hiding, killing, or concealing any animal suspected of being infected with rabies or permit the same to be removed from the city for the purpose of preventing the quarantine.

Sec. 10-141. Quarantine of animals in contact with rabid animal.

All animals capable of being infected with rabies that have come in contact with a rabid animal shall be quarantined and vaccinated as follows:

- (1) If no vaccination for rabies has been given within the previous twelve (12) months, the animal shall be vaccinated and quarantined for ninety (90) days.
- (2) If the animal has been vaccinated for rabies within the previous twelve (12) months, the animal shall be revaccinated and quarantined for thirty (30) days.

Sec. 10-142. Report required when person is bitten by an animal.

Whenever a person is bitten by an animal capable of being infected with rabies, prompt report of such bite shall be made to the Police Department. Such report shall be made by any physician attending the person bitten, or, if such person is at a hospital, the report shall be made by the person in charge. Such report shall contain all information required by the Division of Animal Control. When a physician was not consulted or the person not taken to a hospital, the report shall be made by the person bitten or any other person with knowledge of the facts.

Sec. 10-143. Veterinarians to report result of examination of animal that has bitten a person.

Whenever a veterinarian is called upon to examine an animal capable of transmitting rabies that has bitten a person, the veterinarian shall promptly report the results of the examination to the Division of Animal Control.

Sec. 10-144. Forwarding of head to state health department.

When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under quarantine, the Division of Animal Control shall send the head of such animal to the state health department for pathological examination.

Sec. 10-145. Surrender and examination of carcasses of animals.

The carcass of any dead animal found within the city shall, upon demand, be surrendered to the Division of Animal Control for examination if, in the opinion of an Animal Control Officer, such examination is necessary or advisable.

Sec. 10-146 -10-155. Reserved.

SECTION III. VICIOUS DOGS

Sec. 10-156. Definition.

“Vicious dog” means:

- (a) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or
- (b) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or

- (c) Any dog owned or harbored primarily or in part for the purpose of dog fighting.

Sec. 10-157. Vicious dog prohibited.

- (a) It shall be unlawful for any person to keep or harbor a vicious dog within the corporate city limits of the City of Alcoa unless said vicious dog is confined. Dogs maintained as guard dogs in compliance with the provisions of Sec. 10-158 hereof shall be excluded from the provisions of this Section.
- (b) If any vicious dog is impounded, any authorized officer may institute proceedings in the City of Alcoa Municipal Court against the owner charging the owner with violation of this Ordinance. Nothing in this section shall be construed as preventing appropriate authorities of the City of Alcoa or a complaining citizen from instituting a proceeding in the City of Alcoa Municipal Court for violation of this Ordinance where there has been no impoundment.
- (c) If a complaint has been filed in the City of Alcoa Municipal Court against the owner of a dog for violation of this Ordinance, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and cost under this Ordinance, including penalties for violating this Ordinance.

Nothing in this Section shall be construed to require a dog to be declared vicious prior to taking action under state law.

Sec. 10-158. Requirements for keeping a vicious dog.

- (a) Confinement. All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five (5) feet in width and length by ten (10) feet in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two (2) feet. All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. For purposes of this section, an underground fence system is insufficient confinement. Under no circumstances may more than one (1) vicious dog be kept in any one pen or structure.
- (b) Indoor Confinement. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. In addition, no vicious dog may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog from exiting the house or structure.
- (c) Number of Vicious Dogs per Residence. Only one (1) vicious dog may be owned per residence.
- (d) Leash and Muzzle. The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four (4) feet in length, which shall

be bright yellow in color, and of sufficient strength to control the dog. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human being or animal.

- (e) Signs. The owner of a vicious dog shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be legible from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen or structure. The sign shall be at least twelve (12) inches by twelve (12) inches in size.
- (f) Insurance. The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000), per dog, insuring the owner for any damage or personal injury that may be caused by his vicious dog. The policy shall contain a provision requiring the City to be notified immediately by the agent issuing the policy in the event that the policy is canceled, terminated or expired. The owner must provide proof of the insurance to the Division of Animal control. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this ordinance.

Sec. 10-159. Impoundment.

When a dog has severely attacked a human being or domestic animal and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, or when a police officer or animal control officer witnesses any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals showing those tendencies, or any dog owned or harbored primarily or in part for the purpose of dog fighting, such dog shall be immediately impounded.

Sec. 10-160. Notice of impoundment.

Within five (5) days of impoundment of a dog under Section 10-159, the Division of Animal Control shall notify the dog's owner, if known, in writing of the impoundment.

Sec. 10-161. Exceptions.

- (a) This Section shall not apply to any dog used by the Police Department or law enforcement agencies.
- (b) No dog shall be considered vicious solely based on injury or damage sustained by a person who was entering the owner's property to commit burglary, robbery, assault, willful trespass or other tort or crime.
- (c) No dog shall be considered vicious solely based on injury or damage sustained by a person who was teasing, tormenting, abusing, assaulting, or otherwise provoking the dog.
- (d) No dog shall be considered vicious solely because it bites or attacks:
 - (1) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a suspect; or,

- (2) An unrestrained animal that attacks it or its young while it is restrained in compliance with this ordinance.

Sec. 10-162. Change of Status.

The owner of a vicious dog shall notify the Division of Animal Control:

- (a) immediately if the vicious dog is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;
- (b) if the owner has moved outside of the city limits and shall give the owner's address; or,
- (c) if the dog has died.

Sec. 10-163. Change of Ownership.

- (a) If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, the owner shall, within three (3) days, provide the Division of Animal Control with the name, address, and telephone number of the new owner.
- (b) The previous owner shall notify the new owner of the dog's designation as a vicious dog and, if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog set forth in Section 10-158.
- (c) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or confine the dog indoors.
- (d) The new owner must fully comply with the provisions of this Section, including obtaining liability insurance, prior to the acquisition of the vicious dog.

Sec. 10-164. Guard dogs.

It shall be unlawful for any person to place or maintain guard dogs within the city limits of the City of Alcoa for the protection of persons or property unless -

- (a) The guard dog shall either be (i) confined or (ii) under the absolute control of a handler at all times when not confined; and,
- (b) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. Such signs shall be in lettering clearly visible from either the curb-line or a distance of fifty (50) feet whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-fours (24) hours a day.

Sec. 10-165. Dog Fighting.

- (a) No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

- (b) No person shall permit a dogfight to take place upon their premises or premises within their control.
- (c) No person shall knowingly be a spectator at a dogfight.
- (d) Any dog found on the premises of the dogfight or in the immediate vicinity shall be impounded.
- (e) A conviction under this section shall not relieve a person from prosecution for cruelty to animals under Section 10-118.

Sec 10-166. Penalties.

Any person violating the provisions of Sec 10-158 upon conviction shall be fined fifty dollars (\$50) and each day of violation shall be deemed a separate violation. Further any violation of Sec 10-158 will subject the person to penalties under Sec 10-159.

Sec. 10-167 - 10-180. Reserved.

SECTION IV. Service Animals

Sec. 10-181. Service Animals - Defined

Nothing in this Chapter shall be construed to restrict the use of service animals. The term "service animals" means any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability as defined by the Americans with Disabilities Act.

SECTION V. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Alcoa requiring it.

/s/ Donald R. Mull
Mayor

(THE SEAL)
(OF THE CITY)
(OF ALCOA)

ATTEST:

/s/ Ray E. Richesin
Recorder

APPROVED AS TO FORM:

/s/ Richard Beeler
City Attorney Pro-Tem

Passed on First Reading	<u>January 9, 2007</u>	<u>/s/ Ray E. Richesin</u> Recorder
Passed on Second Reading	<u>May 8, 2007</u>	<u>/s/ Ray E. Richesin</u> Recorder